# IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

## SPECIAL CIVIL APPLICATION No. 14163 of 2004

**For Approval and Signature:**

**HONOURABLE MR.JUSTICE AKIL KURESHI**

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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**GUJARAT STASTE ROAD TRANSPORT CORPORATION - Petitioner(s)**

**Versus**

**MAVJIBHAI ARJANBHAI SAGPARA - Respondent(s)**

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**Appearance :**

MR HARDIK C RAWAL for Petitioner(s) : 1,
RULE SERVED for Respondent(s) : 1,
MR GK RATHOD for Respondent(s) : 1,

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**CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI**

**Date : 21/09/2005**

**ORAL JUDGMENT**

1.The petitioner State Road Transport Corporation has challenged the legality of an Award dated 27.02.2004 passed by the Industrial Tribunal, Bhavnagar. For an

alleged incident of 27.09.1990, when the respondent workman was discharging his duty as a Conductor; a charge-sheet came to be issued against him. It was alleged that the bus in question was carrying 7 passengers of two different groups to whom tickets were not issued. Disciplinary authority imposed punishment of withholding 4 increments with future effect on the respondent by an Order dated 20.09.1991. Though the appellate authority in a suo motu review, enhanced the punishment by withholding of 5 increments with future effect, on a further appeal filed by the workman, original penalty of withholding of 4 increments with future effect was restored by an Order dated 11.07.1996. The respondent workman challenged this punishment order by raising an industrial dispute before the Industrial Tribunal.

2. Industrial Tribunal in its impugned order observed that the driver had stopped the bus on the road and 8 passengers had boarded the bus. Only half a kilometer thereafter, when the booking was still going on, the bus was checked. It was also observed that one of the passengers indicated that he had neither paid fare nor taken the ticket. Passengers also stated that they had

boarded the bus midway. Fine was also collected from them. On the basis of these observations, the Industrial Tribunal concluded that there was no intention of misappropriation of fare on the part of the conductor. The Industrial Tribunal therefore allowed the reference and set aside the punishment.

3. Upon perusal of the Award and the materials produced, it can be seen that the observations made by the Industrial Tribunal are borne out from the evidence on record. Before the Inquiry Officer, the workman had clearly stated that the driver had stopped the bus even when there was no bus stop and he was in the process of issuing tickets. He also stated that he did not close the way bills. There is no counter material produced on record to disbelieve this assertion of the workman. In fact, the reporter who was also examined during the course of the inquiry stated that fine was collected from the passengers for not having taken tickets.

4. From the above discussions, it can be seen that factual findings arrived at by the Industrial Tribunal cannot be categorized as perverse to call for interference in exercise of powers under Articles 226 & 227 of the

Constitution of India. Petition is therefore required to be rejected and is hereby rejected. Rule discharged. No orders as to costs.

**(Akil Kureshi, J.)**

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